IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.6811 of 1997

Dated: October 31, 2006

Between:

M/s. Sri Hanuman Cooperative Sugars Ltd., Hanuman Junction – 521 105, Krishna District, rep. by its Managing Director Sri P. Jayaramaiah.

… Petitioner

And

Deputy Inspector General of Registration & Stamps, Eluru Range, Eluru.

… Respondent

Order:

This Writ Petition has been filed questioning the proceedings dated 22-02-1996 and the consequential demand notice dated 23-02-1996 issued by the respondent, the Deputy Inspector General of Registration and Stamps, Eluru.

2. Petitioner is a society registered under A.P. Cooperative Societies Act, 1964, engaged in the business of manufacture and sale of sugar. It enters into agreements with the agriculturists who grow

sugarcane in the notified area falling within its purview under the provisions of A.P. Sugar Cane (Regulation of Supply and Purchases) Act, 1961. It is stated that during inspection of the petitioner society, agreements entered into on white paper by cane grower and occupier of the factory in form-3 during the financial year 1994-95 were found, which under Article 6 (A) (iv) of Schedule IA of the Indian Stamp Act, 1899 ('the Act' for brevity) are chargeable with stamp duty of Rs.100/- each.

3. Hence, the impugned notice, under Section 73 of the Indian Stamp Act, has been issued to the petitioner to remit deficit stamp duty of Rs.1,63,800/-.

4. The impugned notice has been issued under Section 73 of the Act as substituted by A.P. Act 17 of 1986. The v*ires* of the said provision itself was under challenge before this court in the case of **Canara Bank, Hyderabad V. District Registrar and Collector, Stamps Department**[1], in which a Division Bench of this court held that Section 73 of the Act as substituted by A.P. Act 17 of 1986 is *ultra vires* the provisions of the Act and violative of Article 14 of the Constitution of India. Accordingly the same was struck down, setting aside the consequential order. The matter was carried in appeal to the Supreme Court challenging the order of this court, and the same ended in dismissal.

5. Following the ratio laid down by the Division Bench of this court referred above, the impugned notice issued under Section 73 of the Act is liable to be set aside and is accordingly set aside.

6. The Writ Petition is accordingly allowed. No order as to costs.

JUSTICE R. SUBHASH REDDY.

October 31, 2006
MRR

[1] **1997 (4) ALD (DB)**